IN THE HIGH COURT OF GUJARAT AT AHMEDABAD

CRIMINAL APPEAL No 894 of 1992

For Approval and Signature:

Hon'ble MR.JUSTICE M.S.PARIKH

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1. Whether Reporters of Local Papers may be allowed to see the judgements? : NO

2. To be referred to the Reporter or not? : NO

3. Whether Their Lordships wish to see the fair copy of the judgement? : NO

4. Whether this case involves a substantial question of law as to the interpretation of the Constitution of India, 1950 of any Order made thereunder? : NO

5. Whether it is to be circulated to the Civil Judge? : NO

STATE OF GUJARAT

Versus

RAJA OIL MILL & 6

Appearance:

MR MA PATEL, APP for Petitioner

MS SEJAL K MANDAVIA for Respondent No. 1, 3, 4, 5, 6, 7

ABATED for Respondent No. 2

CORAM : MR.JUSTICE M.S.PARIKH

Date of decision: 11/08/2000

ORAL JUDGEMENT

1. The complainant being the Food Inspector had an occasion to visit 1st respondent's shop/concern on 12/7/1984 and obtain samples of groundnut oil

manufactured for sale. Out of three samples prepared, one was sent to the Public Analyst, Bhuj and the remaining two samples were sent to the Local Health Authority. Upon receipt of the report from the Public Analyst the accused persons came to be charged for the offences punishable u/S. 7 read with sections 16 and 17 of the Prevention of Food Adulteration Act (for short 'the Act') before the Ld. Judicial Magistrate First Class, Porbandar in Criminal Case No. 107 of 1985.

2. Upon appreciation of evidence the Ld. Magistrate acquitted the accused persons of the offences charged against them inter-alia on the following grounds :-

i. There was no proper stirring of the oil before taking the samples.
ii. The findings of the Public Analyst differed from the findings of the Analyst from Central Food Laboratory.
iii. Notice u/S. 13 (2) of the Act was not served to the accused nos. 2, 4, 5, 6 and 7, and
iv. The whole procedure of taking of samples of groundnut oil was not established beyond reasonable doubt as the panch witness/es did not support the prosecution.

3. I have gone through the impugned judgment of the Ld. Magistrate in the context of the evidence adduced before him. The same has been read by the Ld. APP appearing for the State. It is a fact that Panch witnesses have not supported the prosecution. It is also a fact that the report of the Public Analyst indicates addition of castor oil; whereas the report from the Central Food Laboratory does not show such addition, but it shows non-conformation of standards. It would also appear that the notice u/S. 13 (2) of the Act has not been served to accused nos. 2, 4, 5, 6 and 7. In the ultimate analysis the Panch witness has not supported the prosecution case with regard to the procedure followed for taking of the samples. This is an acquittal appeal. Since on the face of the prosecution case two views of evidence are possible, it is not possible to disturb the acquittal.

In the result, this appeal is dismissed.

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PVR.